

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 * * *

4 JASMINE PAUL SANCHEZ,

5 Plaintiff,

6 v.

7 MITCHELL SHARP,

8 Defendant.

Case No. 3:21-CV-00311-MMD-CLB

**ORDER TO FILE DECLARATIONS
AUTHENTICATING EXHIBITS IN
SUPPORT OF MOTION FOR SUMMARY
JUDGMENT**

9
10 On April 19, 2023, Defendant filed a motion for summary judgment. (ECF No. 46.)
11 However, the exhibits filed in support of the motion have not been authenticated. (See
12 *id.*)

13 A trial court can only consider admissible evidence in ruling on a motion for
14 summary judgment. See Fed. R. Civ. P. 56(e); *Beyene v. Coleman Sec. Servs., Inc.*, 854
15 F.2d 1179, 1181 (9th Cir. 1988). Authentication is a “condition precedent to admissibility,”
16 and this condition is satisfied by “evidence sufficient to support a finding that the matter
17 in question is what its proponent claims.” Fed. R. Evid. 901(a). The Ninth Circuit has
18 repeatedly held that unauthenticated documents cannot be considered in a motion for
19 summary judgment. See *Orr v. Bank of America, NT & SA*, 285 F.3d 764, 773 (9th Cir.
20 2002) (citing cases).

21 In a motion for summary judgment, documents authenticated through personal
22 knowledge must be “attached to an affidavit that meets the requirements of [Fed. R. Civ.
23 P.] 56(e) and the affiant must be a person through whom the exhibits could be admitted
24 into evidence. *Canada v. Blain’s Helicopters, Inc.*, 831 F.2d 920, 925 (9th Cir. 1987)
25 (citation omitted). However, a proper foundation need not be established through
26 personal knowledge but can rest on any manner permitted by Fed. R. Evid. 901(b) or
27 902. See Fed. R. Evid. 901(b) (providing ten approaches to authentication); Fed. R. Evid.
28 902 (self-authenticating documents needs no extrinsic foundation).

1 Accordingly, Defendants shall have until **Friday, July 28, 2023** to file
2 authenticating declarations. If declarations are not filed, the Court will deny the motion
3 for summary judgment. The Attorney General's Office is cautioned that further failures to
4 file authenticating documents related to exhibits filed in support of motions for summary
5 judgment will result in the denial of those motions.

6 **IT IS SO ORDERED.**

7 **DATED:** July 21, 2023

8 
9 **UNITED STATES MAGISTRATE JUDGE**